

ORDINANCE NO. 08-57

ORDINANCE GRANTING A CONDITIONAL USE PERMIT (CUP) AND GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW A CHILD DAY CARE CENTER ON PROPERTY ZONED R-1 (ONE FAMILY DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW A SIDE SETBACK OF 5 FEET, WHERE 7.5 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98497(7) AND 98-501. **PROPERTY LOCATED AT 715 EAST 49 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of May 14, 2008, recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The below-described property is hereby granted a conditional use permit (CUP) and a special use permit (SUP) to allow a child day care facility on property zoned R-1 (One Family District) and a variance permit is hereby granted to allow a side setback of 5 feet, where 7.5 feet are required, contra to Hialeah Code §§ 98-497(7) and 98-501, which provide in pertinent part: “The following additional uses shall be permitted in the R-1 one-family district, . . . (7) State-licensed or state-registered family day care homes as defined by F.S. § 402.302(7)” and “In the R-1 one-family district, there shall be side yards...no less than five feet one inch or more than 7.5 feet in width.” respectively. The property is located at 715 East 49 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOT 10, BLOCK 6, LE JEUNE PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 45, PAGE 63, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THE SOUTH 5.00 THEREOF, FOR PUBLIC RIGHT-OF-WAY.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Additional Penalties upon Violation of Conditions of Use.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a revocation of the city occupational license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the conditional use and associated variances.

Section 5: Severability Clause.

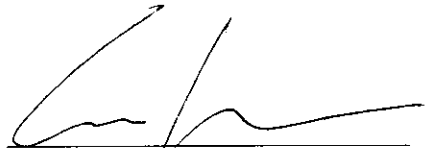
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 10th day of June, 2008.

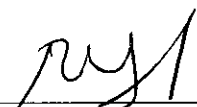
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Carlos Hernandez
Council Vice President

Attest:

Approved on this 13 day of June, 2008.



Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0-1 vote with Councilmembers Caragol, Casals-Muñoz, Gonzalez, Garcia-Martinez, Hernandez, and Yedra voting "Yes" and Councilmember Bovo absent.